

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

RPFC.No. 93 of 2003

MC.93/2002 of FAMILY COURT, MANJERI
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RESPONDENT IN M.C/REVISION PETITIONER:

K.V.UMMER, S/O. KOYAKKUTTY HAJI,
KAITHAVALAPPIL, KANNAMANGALAM AMSOM,
P.O. KANNAMANGALAM.

BY ADV. SRI.K.I.MAYANKUTTY MATHER
SMT.S.AMINA

RESPONDENTS: PETITIONERS IN M.C/RESPONDENTS:

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1. THEKKARAKATHU SUBAIDA, D/O.MUHAMMED,
KUZHIPURAM, P.O. IRINGALLOOR, (VIA) VENGARA.
 2. MUHAMMED FAISAL (MINOR),
S/O. K.V.UMMER, KUZHIPURAM, P.O. IRINGALLOOR,
(VIA) VENGARA.
 3. FASEELA (MINOR), D/O. K.V.UMMER,
KUZHIPURAM, P.O. IRINGALLOOR, (VIA) VENGARA
(MINOR RESPONDENT REPRESENTED BY 1ST RESPONDENT
MOTHER).

BY ADV. SRI.BABU S. NAIR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

ORDER ON CRL.M.A.NO. 9460/203 IN RP.F..C.NO. 93/2003

DISMISSED.

7-11-2007

SD/-K.R.UDAYABHANU, JUDGE

TRUE COPY

P.S.TO JUDGE

K.R. UDAYABHANU, J.

R.P.(F.C.)No.93 of 2003

DATED THIS THE 7th day of November 2007

ORDER

The revision petitioner is the respondent/husband in M.C.No.93/2002 instituted by the first respondent seeking maintenance herself and the two minor children. The court below ordered maintenance at the rate of Rs.300/- to the first petitioner in the M.C. and at the rate of Rs.250/- each to the children from the date of the petition. It is the contention of the first petitioner in the M.C. that the parties got married on 5-3-1989 and that three children were born in the wedlock and one of the children died and the husband misappropriated 75 sovereigns of gold ornaments and Rs.75,000/- given to her at the time of marriage and that he ill-treated her on one or other reason and hence she returned to parental home. It is alleged that he is having business in aluminium vessels and aluminium fabrications materials. Maintenance at the rate of Rs.1000/- per month was claimed for the petitioners. The respondent denied all the allegations and has contended that the first petitioner belonged to a poor family and she married the revision petitioner despite the fact

that he was seriously ill (it is the evidence that he is suffering from leprosy). He has also offered to take back the petitioners and maintain.

2. The evidence adduced in the matter consisted of the testimony of the PW1, petitioner, RW1, the Doctor and RW2, the respondent/ revision petitioner. It is the evidence of RW1, Doctor who has proved Ext.D1 disability certificate that the respondent is having 50% of permanent disability on account of deformity of hands due to hansans disease. RW1, the Doctor has stated that because of the muscle weakness, the respondent would not be in a position to work.

3. Regarding the alleged cruelty and misappropriation the only evidence is that of the testimony of PW1, the petitioner and the same has been denied by RW2, the respondent. The responsibility for leaving the matrimonial home is sought to be fixed on the part of either side in the respective depositions of PW1 and RW2. No objective or impartial evidence has been adduced by either side. All the same, considering the fact that the marriage was conducted despite the fact that the respondent was suffering from illness from the childhood itself and in view of the version of RW2 that PW1 belonged to poor family and it was his parents who supplied the gold ornaments and conducted the marriage. From the above contentions it appears

that the revision petitioner had much better financial background.

4. As already noted above, the revision petitioner in the counter affidavit filed has offered to take back the wife and children and maintain them. Pw1 during her examination has put forward a conditional offer that she will join him only if 25 cents of land and the house is assigned in her name. The offer would indicate that there is no estrangement of a nature that cannot be rectified.

In the circumstances, I find that the possibility of the parties joining together cannot be ruled out. Hence, the matter is remitted back to the court below for attempting reconciliation and fresh adjudication with respect to the maintenance claimed by the first petitioner. Regarding the amount of maintenance ordered to petitioners 2 and 3, the minor children, the order of the court below is confirmed. The matter would stand posted before the court below on 12-12-2007.

K.R.UDAYABHANU, JUDGE

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